

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALEJANDRO TORRIS GARDNER,

Petitioner,

v.

Case No. 09-10335
HONORABLE AVERN COHN

KENNETH McKEE,

Respondent.

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**ORDER DENYING PETITIONER'S MOTION FOR A CERTIFICATE OF
APPEALABILITY (Doc. 13)**

This is a habeas case under 28 U.S.C. § 2254. Petitioner Alejandro Torres Gardner ("Petitioner"), a state prisoner, challenged his jury convictions for first-degree murder, possession of a firearm during the commission of a felony (felony firearm), and felon in possession of a firearm. Petitioner claimed that he was deprived of a fair trial by his trial counsel's omissions, the prosecutor's conduct and comments, a statement by the trial court regarding reasonable doubt, and the cumulative effect of trial errors. The Court denied the petition for lack of merit and declined to issue a certificate of appealability on any of the claims presented in the petition. See Memorandum and Order Denying Petition for Writ of Habeas Corpus and Declining to Issue a Certificate of Appealability, filed June 1, 2011. Doc. 9.

On June 30, 2011, Petitioner signed and dated a motion for a certificate of appealability, which is now before the Court. Doc. 13. Given that the Court has already

determined that Petitioner is not entitled to a certificate of appealability, Petitioner's motion is moot. Moreover, to the extent Petitioner seeks reconsideration of the denial of a certificate of appealability, he has failed to show the Court's decision was in error.

See E.D. Mich. LR 7.1(h)(3). Accordingly, the motion is DENIED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: July 13, 2011

I hereby certify that a copy of the foregoing document was mailed to Alejandro Gardner, #431477, Chippewa Correctional Facility, 4269 W. M-80, Kincheloe, MI 48974 and the attorneys of record on this date, July 13, 2011, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160